



City of Seattle

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Gregory J. Nickels, Mayor

**Department of Design, Construction and Land Use**

D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE**

**Application Number:** 2208915

**Applicant Name:** James Johnston

**Address of Proposal:** 6205 Kirkwood Pl North.

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to establish use for future construction of a second story addition to existing single family residence. Project includes minor addition to attached garage, including roof deck (above garage).

The following approvals are required:

**Variance** to allow expansion of a non conforming structure.  
(SMC Section 23.42.112)

**Variance** to allow portion of the principal structure to project into the required rear yard.  
(SMC 23.44.014 - D3b).

**Variance** to allow portion of the principal structure to project into the required side yard.  
(SMC 23.44.014 – D3c).

**SEPA DETERMINATION:** ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading or demolition or  
involving another agency with jurisdiction.

## **BACKGROUND DATA**

### **Site and Area Description**

The approximately 4,427 square foot site is located in a Single Family (SF 5000) residential zone. The site is located on the northwesterly corner at the intersection of Kirkwood Pl N and Woodland Ave N. The curved northeasterly lot line has street frontage on Kirkwood Pl N and Woodland Ave N, which are paved with curbs, gutters and sidewalks on both sides of the street. The lot is pie shaped, which yields a narrowed front yard and curved side lot line abutting Kirkwood Pl N. The existing one-story single family structure is located more to the rear portion of the lot so that the existing exterior rear wall is predominantly 8'-8" from the rear lot line, with an existing projecting nook that is 10'-4" wide and is 4'-9" from the rear lot line. The existing attached single car garage is also 8'-10" feet from the rear lot line and 2'-10" from the southwesterly side lot line. The vehicular access to the garage is from Woodland Ave N, with an easement over the adjacent property. The existing height of the attached garage is approximately 9'-6" in height with a flat roof, while the living area of the principal structure has an approximate plate height of 13' and an approximate ridge height of 20'.

### **Development in the Vicinity**

The surrounding zone is Single Family 5000 (SF 5000) and the development in the vicinity consists of single family residences which are predominantly one or two stories, with some three story structures. Properties south of the site are developed with two story residences and north of the subject lot, similar development exists, with two and three story residences, which abut East Greenlake Way N. Structures to the west are predominantly two story residences. The streets in the vicinity are improved to city standards and the topography is generally gradual slopes but no designated environmentally critical areas exist in the immediate vicinity.

### **Proposal Description**

The applicant proposes to elevate the existing residence (428 sf main floor, walls, and roof complete) nine (9'-0") feet and construct a new story beneath it for a total of two stories plus the existing basement. The existing house footprint remains the same, except the existing attached 160 sf garage is to be rebuilt and extended 4'-0" in length to the south with a new deck and rails above the entire garage. The garage is not proposed to move any further into the southwesterly side yard. The total attached garage area would then be 200 sf with a 200 sf roof deck on top. The existing main floor, if elevated, cannot meet the "certain additions" rule of SMC (23.44.014-3b), because the rear wall, as detailed above, is too close to the rear lot line. The west side of the existing garage extends approximately 2'-2" into the required side yard and the 4'-0" vertical extension and garage railings cannot comply with the "certain additions" rule of SMC (23.44.014-3a) because both, it is closer than 3' to side lot line and it is not 60% of the total side façade. The proposed deck in the side and rear yards is prohibited by SMC 23.44.014-D11 and was not listed in this variance application.

### Public Comments

During the public comment period which ended April 2<sup>nd</sup>, 2002, the City received three written comments. Comments expressed a desire to be notified once the decision is published, concerns about compromising the vehicle access easement to their lot, and a request to extend the comment period in order to review the application and plans.

### ANALYSIS - VARIANCES

Pursuant to SMC 23.40.020 C, variances from the provisions or requirements of this Land Use Code shall be authorized when all the facts and conditions listed below are found to exist. Analysis of the variance requested follows each statement of the required facts and conditions.

1. ***Because of the unusual conditions applicable to the subject property, including size, shape, topography, location or surroundings, which were not created by the owner or applicant, the strict application of the Lands Use Code would deprive the property the rights and privileges enjoyed by other properties in the same zone or vicinity;***

The unusual conditions in this particular case are the lot's pie shape, the nonconforming location of the existing structure (principal) within the rear yard abutting another property and the nonconforming southwesterly side yard abutting another property. The current owner/applicant did not create these conditions which resulted prior to the current Land Use, Zoning and Building Code requirements. Within the same block front and within the immediate vicinity, there are two story structures; specifically, one residence appears to be three stories, which abuts the northwesterly rear lot line. Also, some other existing one story principal structures would be able to add similar vertical expansions within the provisions of the Land Use Code. Another unusual condition is the location of the attached one car garage, which is located closer three (3') feet of the southwesterly property line, thus encroaches into the required side yard. The current owners bought the house in its present condition and have not made any alterations or additions that made it a nonconforming structure. The house was built prior to the existing current Land Use Code requirements and Zoning regulations. Strict application of the Land Use Code would deprive the property of rights and privileges enjoyed by other properties in the same zone and vicinity due to the conditions described above. Thus, criterion number one is satisfied.

2. ***The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is located;***

The proposed second story, which would be the lifted existing main floor, within the previously permitted footprint, would not encroach into the required rear yard any further than the existing rear wall of the principal structure. The requested variance would allow the existing second floor to be lifted nine (9') feet and a similar floor constructed beneath it, with no further extension into the required yards. While the new partial second floor would add to the appearance of bulk, it is within the height limit of the zone consistent with the provisions of the Land Use Code and with the restrictions applicable to the other single family structures in the neighborhood. This

deviation would allow use of the existing bearing walls to support the approximately (428) square feet second story addition of living space. Also, the applicant is requesting to construct a deck over the existing garage, of which approximately (157) square feet would be located in the required rear and side yards. The applicant is requesting only the minimum necessary to afford relief, the proposed deck in the rear and side yards notwithstanding. Further the applicant is proposing an approximate base height of twenty-two (22') feet and an approximate ridge height of thirty (30') feet, which both fall short of the maximum allowable height in single family zones of thirty (30') foot base heights and thirty-five (35') foot ridge heights. The requested variance does not constitute special privilege, as no additional encroachment further into the required yard is proposed, the fore mentioned deck over the garage notwithstanding. The proposed ground floor addition is an in-fill development between the proposed raised first floor and the foundation. The requested variance would allow the principal structure to extend up to fore mentioned heights of a twenty-two (22') base height and a thirty (30') foot ridge height. The existing nonconforming side yard along the existing garage would remain. The roof over the proposed addition (main living area) will maintain the same roof pitch configuration. Although the raised floor and roof would add to the appearance of bulk, it is less than the height limit that is allowed by code. Further discussion of alternate yard configurations will give clearer basis for the proposed variance. The site abuts two street frontages; Woodlawn Ave N. and Kirkwood Pl N. thus, the yards, as an alternative to what was submitted, could have been configured using section SMC (23.86.010-C4), which outlines the method for determining the rear yard when there is a curved front lot line, as is the case with the subject property. Using this method, all yards would have some degree of non-conformity. Further, the front lot line would become the curved lot line and the side yards would become the abutting property lines of the adjacent homes. If this configuration were used, the northern side yard would meet the certain additions provision of SMC (23.44.014-3a), and the majority of the proposed addition in the northern side yard could be constructed without a variance. In relation, a portion of the principle structure would still be in the rear yard, and would still require a variance. Also, using the yard configuration of SMC (23.86.010-C4), a portion of the structure would be non-conforming in relation to front yard standards, and small portions would not meet the certain additions criteria for front yard additions and would require a variance because the existing house is closer than fifteen (15') feet to the front lot line. In sum, both yard configurations, neither configuration being correct more than the other, yield their own problems and obstacles to overcome. Discussing this alternative gives a clearer perspective on the proposed addition and forms a greater basis for the proposed variance. Note all discussion of alternate yard configurations does not apply in or have reference in any other sections of this decision.

**3. *The granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located;***

The increase in size and bulk of the structure will not exceed the height limit of the zone. It will not block views that would not already be compromised by a code conforming addition, nor will the non-conforming portion of the addition be easily visible from the street. The proposed improvements in particular are contained within the existing external footprint of the structure. Although the structure is being raised approximately nine (9') feet, the shadow overcast has minimal impact to the rear portion of the adjacent northeasterly property. The existing structure

currently has an impact of shadow overcast because of its proximity to the rear lot line. In relation, the structure directly northwest of the subject lot appears to also be nonconforming to current rear yard standards, which causes minimal impact of shadow overcast on the subject lot.

However, the proposed raised second story windows will create a new detriment to the privacy of the single family home directly northwest of the subject lot. The existing location and height of the first story windows, while still intrusive, are less of a detriment than the raised height and sheer number of windows proposed on the second floor. As a result, there is an impact that will be injurious to the single family home directly northwest of the subject lot and proper mitigation is warranted. In regards to parking and the attached garage, since there is no proposed added parking space within the subject site, but rather a gaining of reasonable use of the existing garage and parking space, the public welfare will be served by granting reasonable space to park a vehicle within the structure and out of public view. The granting of the variance therefore will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or vicinity in which the subject property is located.

**4. *The literal interpretation and strict application of the applicable provisions or requirements of this Land Use Code would cause undue and unnecessary hardship or practical difficulties;***

The literal interpretation and strict application of the Land Use Code would prohibit the owner from having a reasonable amount of habitable floor area on the second floor, which is a privilege enjoyed by others in the same vicinity and zone. It may also prohibit the owner from having reasonable use of the existing garage, which has current depth of approximately sixteen-feet (16'5") five inches. The strict application of the Land Use Code on proposed garage roof deck does not cause undue or unnecessary hardship on the applicant, because the proposal is to create a nonconformity where no grounds or cause exist that would allow the creation and or extension of an existing non-conformity to allow the deck. In relation, a conforming deck is proposed on the northeasterly side of the structure, which gives the applicant a useable deck which is conforming to the current Land Use Code.

**5. *The requested variance would be consistent with the spirit and purpose of the Land Use Code regulations for the area.***

The spirit and purpose of the Land Use Code recognizes flexibility as one of the important goals to allow the residents in single family zones maximum use and enjoyment of their homes. The requested relief is consistent with this goal and does not deviate from the intent to preserve the streetscape character of the residential area, nor deviate from the intent to preserve the pattern of open spaces providing natural light, air and ventilation between single family structures in the neighborhood. Granting the requested variance to allow portion of the principal structure to extend upward in the required yards is consistent with the Land Use Code and Land Use Policies.

**DECISION – VARIANCE:**

Variance to allow expansion of a non conforming structure  
(SMC Section 23.42.112)

**CONDITIONALLY GRANTED**

Variance to allow portion of the principal structure to project into the required rear yard  
(SMC 23.44.014 - D3b).

**CONDITIONALLY GRANTED**

Variance to allow portion of the principal structure to project into the required side yard  
(SMC 23.44.014 – D3c).

**CONDITIONALLY GRANTED**

**CONDITIONS**

1. No deck shall be erected over the garage portion of the structure, which does not meet section (SMC 23.44.014-D11). If a deck is erected above the garage in conformance with the aforementioned section, the building permit shall make clear by note that no access is allowed to the portion over the garage within the required yards. Further, when a building permit is applied for, a pitched roof shall be erected over the portion of the deck in the required rear yard, being the back eleven-feet (11'4") four inches of the garage, to ensure that the area within the rear yard will not be used as a deck. The ridge of the pitched roof shall not exceed a (3:12) ratio of pitch, so as the new height is the least intrusive on the neighborhood. Also, plants or other access prohibiting devices such as barrier walls shall be executed in the building permit, to ensure that area within the required side yard will not be used as a deck.
2. All windows located on the northwesterly façade of the lifted floor must be view obscuring material, so as to maintain the privacy of the rear yard of the abutting northwesterly lot.

Signature: (signature on file) Date: May 1, 2003  
Lucas DeHerrera, RIC Land Use Planner  
Department of Design, Construction and Land Use  
Land Use Services

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